

House Study Bill 658 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act to relating to court-ordered reimbursement of jail costs
2 and restitution.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 356.7, subsection 3, Code 2020, is
2 amended to read as follows:

3 3. Upon receipt of a claim for reimbursement, the court
4 shall approve the claim in favor of the sheriff or the county,
5 or the municipality, for the amount owed by the prisoner as
6 identified in the claim and any fees or charges associated
7 with the filing or processing of the claim with the court.
8 ~~The If the sheriff or municipality may choose to enforce the~~
9 ~~claim in the manner provided in chapter 626. Once approved~~
10 ~~by the court, the claim for the amount owed by the person~~
11 ~~shall have the force and effect of a judgment for purposes of~~
12 ~~enforcement by the sheriff or municipality has not requested~~
13 ~~the claim be included within the order for payment of~~
14 ~~restitution as provided pursuant to subsection 2, paragraph~~
15 ~~"i", the court-approved claim shall be a civil judgment against~~
16 ~~the prisoner in favor of the sheriff or the county, or the~~
17 ~~municipality, and shall be enforceable in the same manner as~~
18 ~~any other judgment~~. However, irrespective of whether the
19 judgment lien for the amount of the claim has been perfected,
20 the claim shall not have priority over competing claims for
21 child support obligations owed by the person.

22 Sec. 2. Section 910.2, Code 2020, is amended to read as
23 follows:

24 **910.2 Restitution or community service to be ordered by**
25 **sentencing court.**

26 1. a. In all criminal cases in which there is a plea of
27 guilty, verdict of guilty, or special verdict upon which a
28 judgment of conviction is rendered, the sentencing court shall
29 order that restitution be made by each offender to the victims
30 of the offender's criminal activities, to the clerk of court
31 for fines, penalties, surcharges, ~~and, to the extent that the~~
32 ~~offender is reasonably able to pay,~~ for the following:

33 (1) Crime victim assistance reimbursement.

34 (2) Restitution to public agencies pursuant to section
35 321J.2, subsection 13, paragraph "b".

1 (3) Court costs including correctional fees approved
2 pursuant to [section 356.7](#).

3 ~~(4) Court-appointed attorney fees ordered pursuant to~~
4 ~~[section 815.9](#), including the expense of a public defender, when~~
5 ~~applicable.~~

6 (5) Contribution to a local anticrime organization.

7 (6) Restitution to the medical assistance program pursuant
8 to [chapter 249A](#).

9 b. To the extent an offender is reasonably able to pay,
10 the sentencing court shall order the offender to pay for
11 court-appointed attorney fees ordered pursuant to section
12 815.9, including the expense of a public defender, when
13 applicable.

14 ~~b.~~ c. However, victims shall be paid in full before
15 fines, penalties, and surcharges, crime victim compensation
16 program reimbursement, public agencies, court costs
17 including correctional fees approved pursuant to section
18 356.7, court-appointed attorney fees ordered pursuant to
19 section 815.9, including the expenses of a public defender,
20 contributions to a local anticrime organization, or the medical
21 assistance program are paid.

22 ~~e.~~ d. In structuring a plan of restitution, the court shall
23 provide for payments in the following order of priority:

24 (1) Victim.

25 (2) Fines, penalties, and surcharges.

26 (3) Crime victim compensation program reimbursement.

27 (4) Public agencies.

28 (5) Court costs including correctional fees approved
29 pursuant to [section 356.7](#).

30 (6) Court-appointed attorney fees ordered pursuant to
31 section 815.9, including the expense of a public defender.

32 (7) Contribution to a local anticrime organization.

33 (8) The medical assistance program.

34 2. a. When the offender is not reasonably able to pay
35 all or a part of the ~~crime victim compensation program~~

1 ~~reimbursement, public agency restitution, court costs~~
2 ~~including correctional fees approved pursuant to [section 356.7](#),~~
3 court-appointed attorney fees ordered pursuant to section
4 815.9, including the expense of a public defender, ~~contribution~~
5 ~~to a local anticrime organization, or medical assistance~~
6 ~~program restitution,~~ the court may require the offender,
7 in lieu of that ~~portion of the crime victim compensation~~
8 ~~program reimbursement, public agency restitution, court costs~~
9 ~~including correctional fees approved pursuant to [section 356.7](#),~~
10 ~~court-appointed attorney fees ordered pursuant to section~~
11 ~~815.9, including the expense of a public defender, contribution~~
12 ~~to a local anticrime organization, or medical assistance~~
13 ~~program restitution for which the offender is not reasonably~~
14 ~~able to pay payment,~~ to perform a needed public service for a
15 governmental agency or for a private nonprofit agency which
16 provides a service to the youth, elderly, or poor of the
17 community.

18 *b.* When community service is ordered, the court shall set
19 a specific number of hours of service to be performed by the
20 offender which, for payment of court-appointed attorney fees
21 ordered pursuant to [section 815.9](#), including the expenses of a
22 public defender, shall be approximately equivalent in value to
23 those costs. The judicial district department of correctional
24 services shall provide for the assignment of the offender to
25 a public agency or private nonprofit agency to perform the
26 required service.

27 Sec. 3. Section 910.3, Code 2020, is amended to read as
28 follows:

29 **910.3 Determination of amount of restitution.**

30 The county attorney shall prepare a statement of pecuniary
31 damages to victims of the defendant and, if applicable, any
32 award by the crime victim compensation program and expenses
33 incurred by public agencies pursuant to section 321J.2,
34 subsection 13, paragraph "b", and shall provide the statement
35 to the presentence investigator or submit the statement to

1 the court at the time of sentencing. The clerk of court
2 shall prepare a statement of court-appointed attorney fees
3 ordered pursuant to [section 815.9](#), including the expense of a
4 public defender, and court costs including correctional fees
5 claimed by a sheriff or municipality pursuant to [section 356.7](#),
6 which shall be provided to the presentence investigator or
7 submitted to the court at the time of sentencing. If these
8 statements are provided to the presentence investigator, they
9 shall become a part of the presentence report. If pecuniary
10 damage amounts are not available at the time of sentencing, the
11 county attorney shall provide a statement of pecuniary damages
12 incurred up to that time to the clerk of court. The statement
13 shall be provided no later than thirty days after sentencing.
14 If a defendant believes no person suffered pecuniary damages,
15 the defendant shall so state. If the defendant has any mental
16 or physical impairment which would limit or prohibit the
17 performance of a public service, the defendant shall so state.
18 The court may order a mental or physical examination, or both,
19 of the defendant to determine a proper course of action. At
20 the time of sentencing or at a later date to be determined by
21 the court, the court shall set out the amount of restitution
22 including the amount of public service to be performed as
23 restitution and the persons to whom restitution must be paid,
24 and shall make a finding as to the defendant's reasonable
25 ability to pay court-appointed attorney fees ordered pursuant
26 to section 815.9, including the expense of a public defender,
27 if applicable. ~~If the full amount of restitution cannot be~~
28 ~~determined at the time of sentencing, the court shall issue a~~
29 ~~temporary order determining a reasonable amount for restitution~~
30 ~~identified up to that time. At a later date as determined by~~
31 ~~the court, the court shall issue a permanent, supplemental~~
32 ~~order, setting the full amount of restitution.~~ The court shall
33 enter further supplemental orders, if necessary. These court
34 orders shall be known as the plan of restitution.

35 Sec. 4. Section 910.7, subsection 1, Code 2020, is amended

1 to read as follows:

2 1. ~~At any time during the period of probation, parole, or~~
3 ~~incarceration, the~~ The offender or the office or individual
4 who prepared the offender's restitution plan may petition the
5 court on any matter related to the plan of restitution or
6 restitution plan of payment and the court shall grant a hearing
7 if on the face of the petition it appears that a hearing is
8 warranted. A petition relating to the amount of restitution
9 shall be filed by the offender or the office or individual who
10 prepared the offender's restitution plan within thirty days
11 of the date of the restitution order. A petition relating
12 to the offender's reasonable ability to pay court-appointed
13 attorney fees ordered pursuant to section 815.9, including the
14 expense of a public defender, shall be filed within thirty days
15 of the date of the sentencing order or within thirty days of
16 the date of any supplemental restitution order. A petition
17 relating to any other issue may be filed at any time during the
18 offender's period of probation, parole, or incarceration. An
19 offender's failure to file a petition within any of the time
20 periods specified in this subsection shall be deemed a waiver
21 of any objection to the offender's plan of restitution and an
22 acknowledgment by the offender that the offender does have a
23 reasonable ability to pay any court-appointed attorney fees as
24 previously determined by the court.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill relates to court-ordered reimbursement of jail
29 costs and restitution.

30 Under current law, a sheriff or municipality may choose to
31 enforce a claim of reimbursement for charges for administrative
32 costs and room and board costs at a jail or municipal holding
33 facility as a civil claim. Once the claim is approved by the
34 court, it shall have the force and effect of a judgment for
35 purposes of enforcement by the sheriff or municipality. Under

1 the bill, if the claim of reimbursement was not requested
2 to be included within the order for payment of restitution,
3 the court-approved claim shall be a civil judgment against
4 the prisoner in favor of the sheriff or county, or the
5 municipality, and is not subject to a court's determination of
6 the prisoner's reasonable ability to pay.

7 Current law provides the court must make a determination
8 of an offender's reasonable ability to pay in a criminal case
9 prior to entering a restitution order against the offender
10 for crime victim assistance reimbursement, restitution to
11 public agencies, court costs including correctional fees,
12 court-appointed attorney fees, contributions to a local
13 anticrime organization, and restitution to the medical
14 assistance program. The bill eliminates the requirement for
15 a court to make a determination of the offender's reasonable
16 ability to pay except for court-appointed attorney fees ordered
17 pursuant to Code section 815.9.

18 Under current law, when a court makes a determination an
19 offender is not reasonably able to pay, the court may require
20 the offender to perform public service in lieu of payment
21 for crime victim compensation program costs, public agency
22 restitution, court costs, court-appointed attorney fees,
23 contributions to a local anticrime organization, or medical
24 assistance program restitution. Under the bill, a court may
25 only require the offender to perform public service in lieu of
26 payment for court-appointed attorney fees ordered pursuant to
27 Code section 815.9.

28 Under current law, if the full amount of restitution cannot
29 be determined at the time of sentencing, the court is required
30 to issue a temporary order determining a reasonable amount
31 for restitution identified at that time, and shall issue a
32 permanent, supplemental order determining the full amount of
33 restitution at a later date. The bill strikes this provision.

34 The bill requires the court to make a finding as to the
35 defendant's reasonable ability to pay court-appointed attorney

1 fees ordered pursuant to Code section 815.9, including the
2 expense of a public defender, at the time of sentencing or a
3 later date to be determined by the court.

4 Under current law, the offender or the office or individual
5 who prepared the offender's restitution plan may petition
6 the court for a hearing on any matter related to the plan
7 of restitution at any time during the offender's period of
8 probation, parole, or incarceration. The bill requires a
9 petition for a hearing relating to the amount of restitution
10 to be filed by the offender or the office or individual who
11 prepared the offender's restitution plan within 30 days of the
12 date of the restitution order. A petition relating to the
13 offender's reasonable ability to pay court-appointed attorney
14 fees, including the expense of a public defender, shall be
15 filed within 30 days of the date of the sentencing order or
16 within 30 days of the date of any supplemental restitution
17 order. Under the bill, if an offender does not file a petition
18 within the time periods specified in the bill, the failure
19 to file shall be deemed a waiver of any objection to the
20 offender's plan of restitution and an acknowledgment that the
21 offender has the reasonable ability to pay court-appointed
22 attorney fees as previously determined by the court.